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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/446,395	12/22/1999	ULLA OLOFSSON	000515-175	2263

7590

03/18/2003

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EXAMINER

WEBB, JAMISUE A

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 03/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/446,395

Applicant(s)

OLOFSSON ET AL.

Examiner

Jamisia A. Webb

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, and 6-19 are rejected under 35 USC 103(a) as being unpatentable over Gryskiewicz et al. (5,913,851) in view of Langdon (5,368,910).
3. With respect to Claims 1, 4, 8, 12-17 and 19: Gryskiewicz discloses the use of an absorbent article, such as an incontinence product, diaper and sanitary napkin (Figure 2, and column 1, lines 18-20) with an absorbent body, backsheet and topsheet (See Figures 2-4), where the topsheet comprises a first material (54) that can be polyethylene, or a bicomponent fiber with a polyethylene sleeve and polyester core (column 9, lines 1-13), and the material can be treated with a surfactant to be more hydrophilic.
4. Gryskiewicz teaches that the material can be surface treated to be more hydrophilic, however fails to disclose the use of corona or plasma treatment. Langdon discloses the material being surface treated using a plasma/corona method to make the surface more hydrophilic (column 8, lines 39-42). It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the surfactant of the first material of Gryskiewicz with a plasma/corona treatment, as disclosed by Langdon, in order to make the material more hydrophilic without the use of surfactant, to eliminate surfactant residue on the surface of the fibers. (see Langdon, column 8). It is the examiner's position that the oxygen/carbon ratio is

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inherent in the material itself, and due to the fact that Langdon and Gryskiewicz disclose a nonwoven web made of fibers that are polyester and are completely coated with polyethylene, and is treated with a plasma/corona charge (as shown in the applicant's specification), then it is inherent that the material itself has an oxygen/carbon ratio that is greater than 0.19.

5. With respect to Claim 2: Gryskiewicz discloses the first material being a nonwoven material with a polyethylene sheath (column 9, lines 1-13).

6. With respect to Claim 3: Gryskiewicz discloses the claimed invention except the use of polyester in the core of a bicomponent fiber, instead of polypropylene. Langdon discloses polypropylene is an equivalent structure to polyester (column 6, lines 25-59). Therefore, because these two polyolefins were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute polypropylene for polyester in the core of a bicomponent fiber.

7. With respect to Claim 6, 7 and 9: Gryskiewicz discloses the topsheet being made from a second fibrous nonwoven layer (44) and is polypropylene (column 7, lines 5-12).

8. With respect to Claim 10: See Figure 3.

9. With respect to Claim 11: see Gryskiewicz, column 11, lines 28-39.

10. With respect to Claim 18: Metallocene is used as a catalyst in the polymerization of certain polyolefins, therefore metallocene-catalyzed refers to a process used to polymerize the polyethylene. The limitation of the polyethylene being a metallocene-catalyzed polyethylene is considered a Product-by-Process limitation and these limitations are not limited to the manipulations of steps, only the end structure implied by these steps (see MPEP 2113). It follows that if the product in the claim with the product-by-process limitation is the same as the

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product of the prior art, the claim is unpatentable even though the prior art product was made by a different process. Therefore the polyethylene being a metallocene catalyzed polyethylene is anticipated in the Gryskiewicz and Langdon references.

11. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gryskiewicz in view of Langdon as applied to claim 1 above, and further in view of Thomas et al. (4,351,784). Gryskiewicz discloses the fibrous material (54) can be non-woven webs and therefore would apertures formed between each fibers, but fails to teach the use of a perforated plastic film. Thomas teaches the use of a corona treated perforated thermoplastic film (see abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the nonwoven webs of the fibrous material, be in the form of a perforated film, as disclosed by Thomas, in order to provide increased liquid flow rate of liquid through the material. (see Thomas, abstract).

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (703) 308-8579.

The examiner can normally be reached on M-F (7:30 - 4:00).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703)308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

jaw   
March 12, 2003



**WEILUN LO**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3700**